117 N. Y. Supp. 273; *Jerome v. New York Evening Journal* (1908) 124 App. Div. 372, 108 N. Y. Supp. 801 (libel of a public officer in his official capacity sufficiently important); *People v. McClellan* (1908) 124 App. Div. 664, 109 N. Y. Supp. 76 (action to determine the right to the mayoralty of New York City); *Industrial and General Trust Co. v. Tod* (1905, Sup. Ct.) 46 Misc. 492, 95 N. Y. Supp. 44 (action by holder of railway bonds for breach of an agreement to reorganize the railroad involved questions of sufficient intricacy). In Louisiana, jurymen selected from certain occupations or professions may be impanelled when the courts deem it advisable. *Golding v. Petit* (1875) 27 La. Ann. 86; *Kellogg v. Clinton* (1876) 28 La. Ann. 674; see *Bruce v. Beall* (1898) 100 Tenn. 573, 47 S. W. 204. A New York court once emphatically declared itself as opposed on general principles to special juries as involving new machinery and tending to prolong litigation without producing results commensurately satisfactory. *Ives v. Ranger* (1892) 65 Hun, 622, 20 N. Y. Supp. 32. In a day of attempted judicial reform it might be interesting to determine the relative value of the verdict of the special jury as contrasted with that of the ordinary jury.

KANSAS INDUSTRIAL COURT—CONSTITUTIONALITY NOT INVOLVED IN COLLATERAL PROCEEDINGS.—The plaintiffs, officials of the United Mine workers of America, sued out from the Supreme Court of the United States two writs of error to the Supreme Court of Kansas to review two judgments affirming the action of a district court of Kansas in adjudging them guilty of contempt for disobeying orders entered pursuant to the provisions of the Kansas Court of Industrial Relations Act (Kansas Laws, 1920, ch. 29) on the ground that the act was unconstitutional. *Held,* that the writs should be dismissed. *Howat et al. v. State of Kansas* (1922, U. S.) 42 Sup. Ct. 277.

The plaintiffs did not deny the constitutionality of section 11, empowering the Court of Industrial Relations to conduct investigations, and it was expressly provided by section 28 that any adjudication that any section or provision was invalid should not affect the validity of the rest of the act. *State v. Howat* (1920) 107 Kan. 423, 191 Pac. 585. It is clear that the plaintiffs could not question the validity of other provisions not involved in the proceeding. See *Arizona Employers' Liability Cases* (1919) 250 U. S. 400, 429, 39 Sup. Ct. 553, 559. And when a witness is summoned before a court of competent jurisdiction he cannot refuse to testify because he thinks the court has not jurisdiction of the subject matter. *Blair v. United States* (1919) 250 U. S. 273, 39 Sup. Ct. 468. Manifestly there was no federal question here. Although the defendants in the second case attacked the constitutionality of the act, the court refused to review its decision because the validity of the order committing the defendants for contempt did not at all depend upon the validity of the Act. *State v. Howat* (1921) 109 Kan. 376, 198 Pac. 686; COMMENTS (1921) 31 YALE LAW JOURNAL, 75. The court of first instance had jurisdiction of the case and power to issue the injunction without reference to the act. The injunction so issued could be questioned only by direct proceedings on appeal, and not collaterally in a proceeding for contempt. See *Gompers v. Bucks Stove & Range Co.* (1911) 221 U. S. 418, 450, 31 Sup. Ct. 492, 501. It is disappointing not to have the validity of this interesting legislation determined, but the writs of error were properly dismissed. For a discussion of the Court of Industrial Relations with the provisions of the act, see Vance, *Kansas Court of Industrial Relations and its Background* (1921) 30 YALE LAW JOURNAL, 456; see also (1921) 31 *ibid.* 206.

MORTGAGES—SUBROGATION—ADVANCEMENT OF MONEY FOR REDEMPTION.—The defendant X held land subject to a mortgage to A for $1,500 and a subsequent mortgage to the plaintiff B for $6,000. A contract to sell the land to the defendant

C was then recorded. The first mortgage was foreclosed and a sheriff's certificate issued to A. An Iowa statute allowed the owner a year and the junior lienholder nine months within which to redeem. Code, 1897, sec. 4046. After nine months, but before the expiration of a year, B gave $1,500 to X, thereby inducing him to discharge A's lien. After C acquired legal title, B claimed to be subrogated to the rights of the first mortgagee. *Held,* (two judges *dissenting*) that although B's second mortgage was a valid encumbrance on the land, he was not subrogated to the first mortgage, which had been entirely discharged. *Berry v. Krittenbrink* (1922, Iowa) 186 N. W. 428.

The majority of the court, in holding the first mortgage discharged, said: "A discharge of a prior lien by the primary debtor necessarily operates to the benefits of other subsequent lienholders, and this is true regardless of the source of the funds used by the debtor in effecting such discharge." The general rule thus stated is subject to exceptions. Equity applies the principle of conventional subrogation when a third party, pursuant to an agreement that the mortgage is to be kept alive for his security, advances money to a mortgagor to pay off an encumbrance. *Home Savings Bank v. Bierstadt* (1897) 168 Ill. 618, 48 N. E. 161. Such an agreement is said to be "implied," if justice demands it. *Kent v. Bailey* (1917) 181 Iowa, 489, 164 N. W. 852; *Cook v. Kelly* (1917) 200 Ala. 133, 75 So. 953. Where the mortgagor, by fraudulently representing that there are no other encumbrances on the land, obtains a loan in order to pay off a prior mortgage, the doctrine of subrogation is invoked in behalf of the lender on the theory of a constructive trust. *State Sav. Trust Co. v. Spencer* (1918, Mo. App.) 201 S. W. 967; *Hill v. Ritchie* (1916) 90 Vt. 318, 98 Atl. 497; *contra, Southern Trust Co. v. Garner* (1920) 145 Ark. 58, 223 S. W. 369, disapproved in (1920) 34 HARV. L. REV. 86. A resulting trust is raised when one loans money and takes a mortgage in the name of another. *Hanrion v. Hanrion* (1906) 73 Kan. 25, 84 Pac. 381; *In re Tobin's Estate* (1909) 139 Wis. 494, 121 N. W. 144. In the present case, the rights of the purchaser of the land were not prejudiced, and inasmuch as there is no inflexible rule that payment by the principal debtor extinguishes the mortgage, it seems that the minority, in urging that X was merely a trustee for B and that consequently the mortgage should be equitably sustained for B's benefit, adopted the better view.

SALES—WRONGFUL RETENTION OF GOODS BY BUYER.—The defendant refused to pay for paper delivered to him by the plaintiffs on the ground that the paper was of an inferior grade. The plaintiffs demanded that the paper be returned if it was unsatisfactory, and the defendant refused, stating that he would hold it until the plaintiffs sent paper of the agreed quality. The Sales Act provided that the "buyer will be deemed to have accepted goods (a) by verbal or written acceptance (b) by doing any act in relation to them inconsistent with the ownership of the seller (c) by retaining them after a reasonable time in which to examine them has elapsed without rejecting them." Conn. Gen. Sts. 1918, ch. 230, sec. 4714. Acceptance was predicated by the plaintiff on the last ground. *Held,* that the defendant's rejection was conditional, and therefore had the effect of an acceptance. *Fillmore v. Garvin* (1921) 97 Conn. 207, 116 Atl. 184.

A buyer who has not had an opportunity to examine goods prior to delivery is entitled to a reasonable time after delivery in which to examine them. Conn. Gen. Sts. 1918, ch. 230, sec. 4713; *Fiske v. Dunbar* (1919) 118 Me. 342, 108 Atl. 324; *Sponge Divers' Assoc. v. Smith, Kline, & French Co.* (1919, E. D. Pa.) 257 Fed. 328. "Where goods are delivered to a buyer and he refuses to accept them, having the right to do so, he is not bound to return them to the seller, but it is sufficient if he intimates to him that he refuses to accept them." Conn. Gen. Sts. 1918, ch. 230, sec. 4716; *Mulcahy v. Dieudonne* (1908) 103 Minn. 352, 115 N. W.